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15 *eTouch Menu, Inc. and Scott Morrow*

16 UNITED STATES DISTRICT COURT
17 DISTRICT OF NEVADA

18 eTouch LV, LLC, a Nevada limited liability
company,

19 Plaintiff,

20 v.

21 eTouch Menu, Inc., a Minnesota corporation;
SCOTT MORROW, and individual; and DOES 1 –
22 10, inclusive,
Defendants.

23 eTouch Menu, Inc., a Minnesota corporation;
SCOTT MORROW, and individual;

24 Counter-Claimants

25 v.

26 eTouch LV, LLC, a Nevada limited liability
27 company,

28 Counter-Defendant.

Case No.: 2:18-cv-02066-JCM-NJK

**STIPULATION AND ORDER TO
STAY DISCOVERY PENDING
MEDIATION**

STIPULATION AND ORDER TO STAY LITIGATION PENDING MEDIATION

Plaintiff/Counter-defendant eTouch LV, LLC and Defendants/Counterclaimants eTouch Menu, Inc. and Scott Morrow (collectively as “Parties”), by and through their respective counsel, hereby stipulate and respectfully request that the Court stay discovery pending completion of the parties’ private mediation currently scheduled for August 21-22, 2019 with (Ret.) Judge Philip Pro of JAMS. The Parties believe the proposed stay is in the Parties’ and the Court’s interests of costs and efficiency.

In support of this request, the Parties provide the following information for the Court’s consideration:

1. This action includes competing claims filed by eTouch LV, LLC, on the one hand, and eTouch Menu, Inc. and Scott Morrow, on the other. *See* ECF No. 54, 56.

Additionally, this dispute also includes an arbitration pending before the American Arbitration Association. *See* ECF No. 55.

2. The Parties have engaged in substantial discovery including but not limited to the following:

- a. The Parties exchanged their initial disclosures.
- b. eTouch Menu served its first set of requests for production on eTouch LV, LLC. eTouch LV, LLC served its responses to the same.
- c. eTouch LV, LLC served its first set of requests for admission, requests for production, and interrogatories on eTouch Menu, Inc. eTouch Menu, Inc. served its responses to the same.
- d. eTouch LV, LLC served its first set of requests for production and interrogatories on Scott Morrow. Scott Morrow served his responses to the same.
- e. eTouch Menu recently served its second set of requests for production to eTouch LV, LLC. eTouch LV, LLC’s responses are not yet due.
- f. Scott Morrow recently served his first set of interrogatories to eTouch LV, LLC. eTouch LV, LLC’s responses are not yet due.

- 1 g. Collectively, the Parties have produced approximately 2.5 million pages of
2 documents.
- 3 h. The Parties are meeting and conferring regularly regarding several
4 discovery issues.
- 5 i. eTouch LV, LLC served its notice of intent to serve subpoenas for
6 documents on twenty (20) third parties and is in the process of producing
7 the responses to the subpoenas.
- 8 3. The Parties anticipate the following discovery will need to be completed:
- 9 a. eTouch LV, LLC to serve its responses to eTouch Menu, Inc. and Scott
10 Morrow's interrogatories and second set of requests for production.
- 11 b. The Parties to continue their meet and confer efforts regarding the
12 previously-served discovery responses.
- 13 c. Depositions of the Parties' respective principals and 30(b)(6) witnesses,
14 some of whom are located outside of Nevada
- 15 d. Deposition of third parties, many of whom are located outside of Nevada
- 16 e. Additional subpoenas for documents on third parties
- 17 f. Expert discovery
- 18 g. Additional written discovery as necessary
- 19 4. After multiple meet-and-confer sessions, the Parties have all agreed to participate
20 in a mediation with Retired Judge ~~Phillip~~ Pro at JAMS. The mediation is scheduled for August
21 21-22, 2019. Philip
- 22 5. The Parties recognize that substantial time and costs will be expended to review
23 the considerable amount of documents produced to date and to be produced as discovery
24 progresses. The Parties agree that it is in the best interest of all Parties to wait until the
25 mediation process is complete prior to incurring the time and expense of the remaining written
26 discovery, expert designations, depositions, and motion practice, as the mediation could resolve
27 this matter in its entirety, thereby relieving the Parties of further costs and expenses and relieving
28 the Court of taxes upon its resources.

1 6. It would be counterproductive to the Parties’ settlement efforts to have the Parties
2 incur the expense of time-consuming and costly discovery because the Parties have agreed to
3 stay such proceedings in favor of attempting to achieve an early resolution to this matter. Rule 1
4 of the Federal Rules of Civil Procedure provides that the federal rules of practice should be
5 “construed and administered to secure the just, speedy, and *inexpensive* determination of every
6 action and proceeding.” (Emphasis added). Further, the Parties anticipate numerous discovery
7 motions may be necessary to resolve the Parties’ discovery disputes. Thus, staying discovery in
8 this case is consistent with the spirit and intent of the Federal Rules of Civil Procedure. If a stay
9 is not granted, the Parties will be required to engage in and incur the costs of the remaining
10 discovery and motion practice which may not be necessary.

11 7. In order to conserve the Parties’ and the Court’s resources, to promote judicial
12 economy, and to increase the likelihood of a successful mediation, the Parties have agreed,
13 subject to the Court’s approval, to stay all discovery for approximately 50 days, or until Friday,
14 August 30, 2019, in order for the parties to complete the agreed upon mediation.

15 8. In the event that the Parties are unable to reach a resolution at the mediation, the
16 Parties agree to file a joint status report informing the Court of the same by Friday, August 30,
17 2019. The Parties further agree to file an amended proposed discovery plan and scheduling order
18 by Friday, September 6, 2019.

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9. This stipulation is made in good faith and not for the purposes of delay.

DATED this 12th day of July, 2018.

/s/ Robert S. Larsen

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Dated: July 15, 2019

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE